



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2466

Ref: 8ENF-W

MAR 10 2005

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Lincoln County Commissioners  
c/o T. Deb Wolfley, Chair  
925 Sage Ave.  
Kemmerer, WY 83101

Re: Notice of Safe Drinking Water  
Act Enforcement Action against  
Town of LaBarge  
PWS ID#5600222

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to the Town of LaBarge, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The system is in violation of 40 C.F.R. §§ 141.81(e), 141.21(b)(5), 141.23(d), 141.26(a)(3), 141.201, 141.31(b), and 141.21(g)(2) for: failure to install corrosion control treatment after exceeding the copper action level; failure to collect additional routine samples for total coliform bacteria after the month following a positive result; failure to monitor routinely for nitrate; failure to monitor routinely for radioactivity; failure to notify the public of the violations; and failure to report the violations to EPA.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Gina Andrews at (303) 312-6688.

Sincerely,

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300  
DENVER, COLORADO 80202-2466  
<http://www.epa.gov/region08>

Ref: 8ENF-W

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

MAR 10 2005

Honorable Diane Sakai, Mayor  
Town of LaBarge  
P.O. Box 327  
LaBarge, Wyoming 82123

Re: Administrative Order  
Docket No. **SDWA-08-2005-0011**  
PWS ID # 5600222

Dear Mayor Sakai:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Town of LaBarge is a supplier of water as defined by the SDWA and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.81(e), 141.21(b)(5), 141.23(d), 141.26(a)(3), 141.201, 141.31(b), and 141.21(g)(2) for: failure to install corrosion control treatment after exceeding the copper action level; failure to collect additional routine samples for total coliform bacteria after the month following a positive result; failure to monitor routinely for nitrate; failure to monitor routinely for radioactivity; failure to notify the public of the violations; and failure to report the violations to EPA.

Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. Small governments are also included under SBREFA, and the enclosed fact sheet discusses resources which may also be available to small governments. Also, there is a compliance assistance center for small governments, the Local Government Environmental Assistance Network (LGEAN). LGEAN can be accessed



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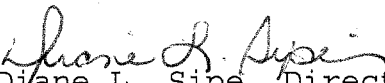
at [www.lgean.com](http://www.lgean.com) or by calling (877) 865-4326. SBREFA does not eliminate your responsibility to comply with the SDWA.

Among other things, the Order calls for the Town to provide a public notification of violations of the SDWA. For your convenience, we have enclosed some template forms to assist you in providing the required public notice. We have also included information regarding the site selection and sampling procedures for total coliform and lead/copper monitoring. If you have any questions or comments concerning the form of the public notice, please do not hesitate to contact Gina Andrews of the EPA, whose telephone number is provided below.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Gina Andrews at the address on the letterhead and include the mailcode 8ENF-W, or call (800) 227-8917, extension 6688 or (303) 312-6688. If you wish to have an informal conference with EPA, you may also call or write Ms. Andrews. If you are represented by an attorney, please feel free to ask your attorney to call Michelle Marcu, Enforcement Attorney, at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

  
Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures

Order  
Public Notice template  
SBREFA  
Sampling Guides (2)

cc: James Moore, Operator  
Larry Robinson, WY DEQ (via email)  
Dr. David Barber, WDH (via email)  
Dr. Tracy Murphy, WDH (via email)  
Dr. Brent Sherard, WDH (via email)



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2005 MAR 10 AM 10:49

IN THE MATTER OF )  
 )  
Town of LaBarge )  
LaBarge, Wyoming )  
 )  
Respondent )  
 )  
Proceedings under Section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )  
 )

FILED  
EPA REGION VIII  
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2005-0011**

The following Findings are made and Order is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1414(g) of the Safe Drinking Water Act ("the Act"), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. The Town of LaBarge (Respondent) is a municipality and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Town of LaBarge Water System (the System), located in Lincoln County, Wyoming, for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections used by

year-round residents or regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. According to a January 17, 2000 sanitary survey by an agent for EPA, Respondent operates a system that is supplied by an infiltration gallery ground water source and serves approximately 493 persons per day through 183 service connections.

#### FINDINGS OF VIOLATION

##### I.

1. 40 C.F.R. § 141.81(e) requires community public water systems that exceed the lead or copper action level to recommend treatment for corrosion control within six months of exceeding the lead or copper action level, and to install optimum corrosion control treatment within 24 months after EPA designates such treatment.

2. Respondent has not installed corrosion control treatment after monitoring results exceeded the copper action level in 1994, and therefore, has been in continuous violation of 40 C.F.R. § 141.81(e) from 1994 to the present. Respondent's copper sampling data from 2002 also exceeded the action level. Samples taken in July 2004 did not exceed the copper action level.

II.

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in June 2004 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

III.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate Maximum Contaminant Level (MCL) as stated in 40 C.F.R. § 141.62.
2. Respondent failed to monitor for nitrate in 2001, in violation of 40 C.F.R. § 141.23(d). Respondent monitored for nitrate in July 2002, November 2003 and December 2004.

IV.

1. 40 C.F.R. § 141.26(a)(3) requires community water systems to monitor the water once every 4 years to determine compliance with the MCL for radioactivity, as stated in 40 C.F.R. § 141.15.
2. Respondent failed to monitor for radioactivity in 2001, in violation of 40 C.F.R. § 141.26(a)(3). Respondent last monitored for radioactivity in March 2002.

V.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation (NPDWR) violations in 40 C.F.R. Part 141.
2. Respondent has not provided public notice of the noncompliance detailed in the preceding Sections I and II of this Order, in violation of 40 C.F.R. § 141.201.

VI.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Sections I, III, IV, and V in violation of 40 C.F.R. § 141.31(b).

VII.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in Section II, in violation of 40 C.F.R. § 141.21(g)(2).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Within 30 days of the date of this Order, Respondent shall comply with the requirements as specified in the Safe Drinking Water Act and 40 C.F.R. Part I (Control of Lead and Copper). Respondent shall:
  - (a) Collect 10 samples that are first-draw, one-liter in volume, and have stood motionless in the plumbing system for at least 6 hours in accordance with 40 C.F.R. § 141.86(b) at sampling sites selected in accordance with 40 C.F.R. § 141.86(a);
  - (b) Have samples analyzed by an EPA-certified laboratory, in accordance with 40 C.F.R. § 141.90;
  - (c) Report the results of the tap water monitoring to EPA within 10 days of receiving the results, including:



- i. the location of each site and criteria under which the site was selected for the system's sampling pool;
  - ii. certification that each first draw sample collected is one-liter in volume, and to the best of one's knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least 6 hours;
  - iii. where residents collected the samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures specified in 40 C.F.R. § 141.86(b)(2);
  - iv. the 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period calculated in accordance with 40 C.F.R. § 141.80(c)(3).
2. If the System meets the lead and copper action levels during the monitoring period in paragraph 1 above, Respondent shall monitor for lead and copper in accordance with 40 C.F.R. § 141.86(d). EPA will notify the Respondent in writing to outline future monitoring

requirements for lead and copper.

3. If the monitoring results collected as required in paragraph 1 of this Order exceed the action level for lead or copper as set forth in 40 C.F.R. § 141.80(c), Respondent shall, within two weeks of receiving the monitoring results, comply with all the requirements for water quality parameter (WQP) monitoring and reporting as specified in 40 C.F.R. §§ 141.87, 141.89, and 141.90 and for source water monitoring and reporting as specified in 40 C.F.R. §§ 141.88, 141.89, and 141.90. Respondent shall report results to EPA within 10 days of receiving the results. Respondent shall:

- (a) Collect 1 tap sample at 1 site that is representative of water quality throughout the distribution system in accordance with 40 C.F.R. §§ 141.87(a)(1)(i) and 141.87(a)(2)(i). Respondent may collect WQP samples at the same locations as those used for coliform sampling under 40 C.F.R. § 141.21.
- (b) Collect 1 sample for each applicable WQP at each entry point(s) to the distribution system that are representative of water quality throughout the distribution system in accordance with 40 C.F.R. §§ 141.87(a)(1)(ii) and 141.87(a)(2)(ii). The

applicable WQPs are specified in 40 C.F.R.

§ 141.87(b) and are:

- i. pH
- ii. alkalinity
- iii. orthophosphate (when an inhibitor containing a phosphate compound is used)
- iv. silica (when an inhibitor containing a silicate compound is used)
- v. calcium
- vi. conductivity, and
- vii. water temperature

(c) Collect one source water sample from each entry point to the distribution system, in accordance with 40 C.F.R. §§ 141.88(a) and (b).

(d) Have samples analyzed by an EPA-certified laboratory, in accordance with 40 C.F.R. § 141.89.

4. If the monitoring results collected as required in paragraph 1 of this Order exceed the action level for lead or copper as set forth in 40 C.F.R. § 141.80(c), Respondent shall, within three months of exceeding the action level, provide optimal corrosion control and source water treatment recommendations to EPA. Within eight months of obtaining EPA's approval of the treatment recommendations, Respondent shall have

optimal corrosion control and, if applicable, source water treatment installed. Within one week of project completion, Respondent shall notify EPA in writing that the project is complete.

- a) After installation of optimal corrosion control treatment, Respondent shall collect 10 tap samples during each two consecutive 6-month monitoring periods (January-June and July-December) immediately following treatment installation, in accordance with 40 C.F.R. Part I and as outlined in paragraph 1(a) through (c) above. Respondent shall report the results of the tap water monitoring to EPA for lead and copper within 10 days following the end of each monitoring period, in accordance with 40 C.F.R. § 141.90(a). The System must also continue WQP monitoring during these periods as follows: a) two samples must be collected at one site in the distribution system during each 6-month monitoring period AND 2) one sample must be collected at each entry point to the distribution system every two weeks. Respondent shall submit monitoring results to EPA within 10 days of receiving the results.
- b) After installation of optimal corrosion control treatment, if the System meets the lead and copper

action levels during both monitoring periods as mentioned in paragraph (a) above, the frequency and number of tap and WQP samples may be reduced according to 40 C.F.R. §§ 141.86(d)(4) and 141.87(d). EPA will notify the Respondent in writing to outline future monitoring requirements for lead and copper.

- c) After installation of corrosion control treatment if the System exceeds the lead or copper action level during either monitoring period, EPA will, based upon the WQP results collected during the twelve month period in paragraph 4(a) above, establish WQP values the System must meet in all subsequent monitoring periods to remain in compliance.

- 5. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

6. No later than 30 days from the effective date of this Order, and annually thereafter, Respondent shall continue to comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
7. Upon the effective date of this Order, Respondent shall monitor the water for radioactivity, as required by 40 C.F.R. § 141.26(a)(3). Respondent's next radionuclide sample is due in 2006. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
8. No later than 30 days from the effective date of this Order, Respondent shall provide public notice of the violations specified in the preceding Sections I and II under the Findings of Violation in this Order to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; AND (2) any other

method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice described above, such as publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others, posting in public places served by the system or on the Internet, or delivery to community organizations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondent shall comply with the public notice requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

9. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
10. Except where a different reporting period is specified

in paragraph 9 above, upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.

11. Reporting requirements specified in this Order shall be provided by certified mail to:

U. S. EPA Region VIII (8P-MS-W)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

#### GENERAL PROVISIONS

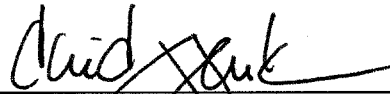
1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its




implementing regulations may subject Respondent to a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).

4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 10<sup>th</sup> day of March, 2005.



Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

## TIER 2 TEMPLATES

The pages that follow contain templates for Tier 1 violations and waterborne disease outbreaks, as listed below. Along with each template are instructions, including the required method of delivery and instructions for completing individual sections of the notice. These instructions are designed to supplement Chapter 6, so you may see much of the information repeated here.

**Mandatory language on health effects, which must be included exactly as written, is presented in *italics* (141.205(d)).**

You must also include the following italicized language in all notices, where applicable (141.205(d)). Use of this language does *not* relieve you of your obligation to take steps reasonably calculated to notify all persons served:

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*

### Templates

LCR Failure to Install Corrosion Control--Template 2-8

## Instructions for LCR Failure to Install Corrosion Control--Template 2-8

### Template on Reverse

Since lead and copper treatment technique violations are included in Tier 2, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation (141.203(b)). You must issue a repeat notice every three months for as long as the violation persists.

Community systems must use one of the following methods (141.203(c)):

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Non-community systems must use one of the following methods (141.203(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use *another* method reasonably calculated to reach others if they would not be reached by the first method (141.203(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for hand delivery or mail. However, you may wish to modify it before using it for posting. If you do, you must still include all the required elements and leave the health effects language in italics unchanged. This language is mandatory (141.205(d)).

### Explaining the Violation

If the delay in installation is related to outside circumstances, such as funding, you should explain these. Consumers may be more supportive of rate increases or may pressure local authorities to provide funds if they understand the circumstances.

This template is written for systems which are required to install corrosion control after exceeding lead action levels. The Lead and Copper Rule requires some large systems to install corrosion control even if they have never exceeded the lead action level. You may need to modify the template if this applies to you. The following may help you explain the violation:

- This is a treatment violation, but it does not mean there is lead in your drinking water. However, it is important that we take measures to control lead levels in the water, because ingesting lead can cause serious health consequences.

### Corrective Action

In your notice, describe corrective actions you are taking. Use the following language, if appropriate, or develop your own:

- We conducted a lead public education program in [month, year]. You should have received a brochure explaining in more detail steps you can take to reduce exposure until corrosion control is in place.

If consumers ask for information on testing their water, you should have on hand the names of laboratories consumers can call. Tell consumers to call NSF International at 1(800) NSF-8010 or the Water Quality Association at 1(800) 749-0234 for information on appropriate filters. For more information on lead, have consumers call the EPA Safe Drinking Water Hotline at 1(800) 426-4791 or the National Lead Information Center Hotline 1(800) LEAD-FYI.

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

### TOWN OF LABARGE Water Contains High Levels of Copper

Our water system recently violated a drinking water standard. Even though this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation.

We routinely sample water at consumers' taps for lead and copper. Tests collected in 1994 and 2002 showed copper levels in the water above the limit, or "action level," so we were required to install corrosion control treatment. This treatment helps prevent copper in the pipes from dissolving into the water. Corrosion control should have been installed by 2000, but installation is incomplete.

#### What should I do?

Listed below are some steps you can take to reduce your exposure to copper:

1. Call us at the number below to find out how to get your water tested for copper.
2. Run your water for 15-30 seconds or until it becomes cold before using it for drinking or cooking. This flushes any standing lead from the pipes.
3. Don't cook with or drink water from the hot water tap; copper dissolves more easily into hot water.
4. **Do not boil your water to remove copper.** Excessive boiling water makes the lead more concentrated – the copper remains when the water evaporates.

#### What does this mean?

Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.

#### What happened? What is being done?

Currently additional testing is being conducted to determine if high copper levels still exist. If copper levels again exceed the action level, the Town of LaBarge will immediately begin studies to determine the best corrosion control treatment and have that treatment installed within the timeframes outlined by the Environmental Protection Agency.

This is not an emergency. If it had been, you would have been notified immediately.

For more information, please contact James Moore at 307-390-7800 or P.O. Box 376 LaBarge, WY 82123.

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by the **TOWN OF LABARGE**

State Water System ID#: **WY5600222**. Date distributed: \_\_\_\_\_